

By: Senator(s) Nunnelee

To: Business and Financial
InstitutionsSENATE BILL NO. 2900
(As Sent to Governor)

1 AN ACT TO MAKE CERTAIN REVISIONS TO THE FUNERAL SERVICE
2 LICENSURE LAW; TO AMEND SECTION 73-11-41, MISSISSIPPI CODE OF
3 1972, TO REVISE CERTAIN DEFINITIONS; TO REENACT SECTIONS 73-11-47
4 AND 73-11-49, MISSISSIPPI CODE OF 1972; TO AMEND SECTION 73-11-51,
5 MISSISSIPPI CODE OF 1972, TO CLARIFY QUALIFICATIONS OF LICENSEES;
6 TO AMEND SECTION 73-11-53, MISSISSIPPI CODE OF 1972, TO PROVIDE
7 FOR RESIDENT TRAINEES; TO AMEND SECTION 73-11-55, MISSISSIPPI CODE
8 OF 1972, TO PROVIDE CERTAIN STANDARDS FOR LICENSURE OF FUNERAL
9 ESTABLISHMENTS; TO AMEND SECTION 73-11-56, MISSISSIPPI CODE OF
10 1972, TO REVISE THE FEES WHICH MAY BE ASSESSED BY THE STATE BOARD
11 OF FUNERAL SERVICE; TO AMEND SECTION 73-11-57, MISSISSIPPI CODE OF
12 1972, TO CLARIFY THE AUTHORITY OF THE BOARD TO DENY, SUSPEND OR
13 REVOKE LICENSES, TO PROVIDE CERTAIN ADDITIONAL GROUNDS FOR
14 DISCIPLINARY ACTION AGAINST LICENSEES, TO PROVIDE A WRITTEN
15 COMPLAINT PROCEDURE AGAINST LICENSEES, TO PROVIDE HEARING
16 PROCEDURES BY THE BOARD FOR LICENSEES AGAINST WHOM A COMPLAINT HAS
17 BEEN FILED, TO CLARIFY APPEAL PROCEDURES, TO AUTHORIZE THE BOARD
18 TO ASSESS MONETARY PENALTIES AGAINST LICENSEES IN LIEU OF LICENSE
19 SUSPENSION OR REVOCATION AND TO PROVIDE ENFORCEMENT AUTHORITY WITH
20 THE BOARD; TO AMEND SECTION 73-11-69, MISSISSIPPI CODE OF 1972, TO
21 CLARIFY THE REQUIREMENT THAT CREMATORY FACILITIES AND THE
22 CREMATORY RETORT OPERATOR SHALL BE LICENSED BY THE BOARD, AND TO
23 PROHIBIT THE CREMATION OF DECEASED ANIMALS BY A LICENSED FACILITY;
24 TO CREATE NEW SECTION 73-11-71, MISSISSIPPI CODE OF 1972, TO
25 PROHIBIT THE INTERMINGLING OF CREMATED REMAINS, AND TO REQUIRE A
26 WRITTEN ACKNOWLEDGEMENT FOR THE DISPOSITION OF REMAINS TO BE
27 OBTAINED ON A FORM THAT INCLUDES CERTAIN INFORMATION; TO AMEND
28 SECTION 73-11-33, MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER
29 ON THE FUNERAL SERVICE LICENSURE LAW; AND FOR RELATED PURPOSES.

30 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

31 **SECTION 1.** Section 73-11-41, Mississippi Code of 1972, is
32 amended as follows:

33 73-11-41. The following terms shall have the meanings
34 ascribed herein unless the context shall otherwise require:

35 (a) "Alternative container" is an unfinished wood box
36 or other nonmetal receptacle or enclosure, without ornamentation
37 or a fixed interior lining, which is designed for the encasement
38 of human remains and which is made of fiberboard, pressed wood,



composition materials (with or without an outside covering) or like materials.

(b) "Board" means the State Board of Funeral Service of the State of Mississippi as created by Section 73-11-43, or any successor thereof.

(c) "Branch establishment" means an auxiliary facility or division of a main funeral establishment licensed under this chapter that is within seventy-five (75) miles of the main facility.

(d) "Casket" is defined as a rigid container that is designed for the encasement of human remains and that is usually constructed of wood, metal, fiberglass, plastic or like material and ornamented and lined with fabric which may or may not be combustible.

(e) "Cremation" means a two-part procedure whereby a dead human body or body parts shall be reduced by direct flame to residue which includes bone fragments and the pulverization of said bone fragments to coarse powdery consistency.

(f) "Crematory" is defined as any person, partnership or corporation that performs cremation. A crematory must comply with any applicable public health laws and rules and must contain the equipment and meet all of the standards established by the rules and regulations adopted by the board.

(g) "Certified crematory operator" means an individual who has completed the certification program as approved by the board.

(h) "Crematory operator" means the legal entity that operates a crematory and performs cremations.

(i) "Crematory retort operator" means a certified crematory operator or a holder of a Mississippi funeral director or funeral service license who is in charge of operations of the crematory.



(j) "Direct cremation" means a disposition of human remains by cremation without formal viewing, visitation or ceremony with the body present.

* * *

(k) "Embalming" means the disinfection of the dead human body by replacing certain body fluids with preserving and disinfecting chemicals.

(l) "Funeral establishment" means a fixed place or premise duly licensed by the board that is devoted to or used in the immediate post-death activities of custody, shelter, care, preparation and/or embalming for final disposition of the body; or used for religious services or other rites or ceremonies associated with the final disposition of human dead; or maintained or held out to the public by advertising or otherwise as such, for the convenience and comfort of the bereaved and the community for viewing or other services in connection with the human dead, and as the office or place for carrying on the profession of funeral service and/or funeral directing.

(m) "Licensee" means a person or entity who holds a license issued by the board.

(n) "License for funeral establishment" means a license issued to a place or premise devoted to or used in the immediate post-death activities of transportation, custody, shelter, care, preparation and/or embalming for final disposition of the body; or used for religious services or other rites or ceremonies associated with the final disposition of human dead; or maintained for the convenience and comfort of the bereaved and the community for viewing or other services in connection with the human dead, and as the office or place for carrying on the profession of funeral service and/or funeral directing.

(o) "License for the practice of funeral directing" means the license given to a person engaging in the "practice of funeral service" who is not engaged in the practice of embalming.



(p) "License for the practice of funeral service" means the license given to a person engaging in the "practice of funeral service," including the practice of embalming.

(q) "Practice of funeral service" means:

(i) Providing shelter, care and custody of the human dead;

(ii) Conducting immediate post-death activities;

(iii) Preparing of the human dead by embalming or other methods for burial or other disposition;

(iv) Being responsible for the transportation of the human dead, bereaved relatives and friends;

(v) Making arrangements, financial or otherwise, for the providing of such services;

(vi) The sale of funeral merchandise; or

(vii) The practice or performance of any function of funeral directing and/or embalming as presently known, including those stipulated herein.

This definition shall not include persons or corporations engaging only in the preneed sale of funeral merchandise or service.

(r) "Resident trainee" means a person who is preparing to become licensed for the practice of funeral service or funeral directing and who is serving under the supervision and instruction of a person duly licensed for the practice of funeral service or funeral directing in this state.

(s) "Retort" means an enclosed space within which the cremation process takes place.

(t) "Trade embalmer" means an embalmer who does embalming for a licensed funeral establishment.

SECTION 2. Section 73-11-47, Mississippi Code of 1972, is reenacted as follows:

73-11-47. The board shall hold not less than two (2) meetings annually for the purpose of conducting the business of



the board and for examining applications for licenses. Four (4) or more members shall comprise a quorum. Any member who shall not attend two (2) consecutive meetings of the board shall be subject to removal by the Governor. The chairman of the board shall notify the Governor in writing when any such member has failed to attend two (2) consecutive regular meetings.

SECTION 3. Section 73-11-49, Mississippi Code of 1972, is reenacted as follows:

73-11-49. (1) The board is authorized to select from its own membership a chairman, vice chairman and secretary-treasurer. Election of officers shall be held at the first regularly scheduled meeting of the fiscal year.

(2) All members of the board shall be reimbursed for their necessary traveling expenses and mileage incident to their attendance upon the business of the board, as provided in Section 25-3-41, and shall receive a per diem as provided in Section 25-3-69 for every day actually spent upon the business of the board, not to exceed twenty (20) days per year unless authorized by a majority vote of the board.

(3) All monies received by the board shall be paid into a special fund in the State Treasury to the credit of the board and shall be used by the board for paying the traveling and necessary expenses and per diem of the members of the board while on board business, and for paying other expenses necessary for the operation of the board in carrying out and involving the provisions of this chapter.

(4) The board shall employ an administrator of the board, who shall have complete supervision and be held responsible for the direction of the office of the board, shall have supervision over field inspections and enforcement of the provisions of this chapter, shall have such other duties as may be assigned by the board, shall be responsible and answerable to the board. The board may employ such other clerical assistants and employees as



may be necessary to carry out the provisions of this chapter, and the terms and conditions of such employment shall be determined by the board in accordance with applicable state law and rules and regulations of the State Personnel Board.

(5) The board, when it shall deem necessary, shall be represented by an assistant attorney general duly appointed by the Attorney General of this state, and may also request and receive the assistance of other state agencies and county and district attorneys, all of whom are authorized to provide the assistance requested.

(6) The board shall have subpoena power in enforcing the provisions of this chapter.

(7) The board shall adopt and promulgate rules and regulations for the transaction of its business in accordance with the provisions of the Mississippi Administrative Procedures Law (Section 25-43-1 et seq.). No rule or regulation promulgated by the board affecting any person or agency outside the board shall be adopted, amended or repealed without a public hearing on the proposed action. The board shall give written notice at least thirty (30) days in advance of any meeting with respect to any proposed adoption, amendment or repeal of a rule or regulation of the board, in accordance with the Administrative Procedures Act, as well as notifying the duly elected presidents and secretaries of the Mississippi Funeral Directors Association and the Mississippi Funeral Directors and Morticians Association, or their successors.

(8) The board may designate the administrator to perform inspections under this chapter, may employ an individual to perform such inspections or may contract with any other individual or entity to perform such inspections. Any individual or entity that performs such inspections shall have the right of entry into any place in which the business or practice of funeral service and/or funeral directing is carried on or advertised as being



carried on, for the purpose of inspection, for the investigation of complaints coming before the board and for such other matters as the board may direct.

(9) The board shall not adopt any rule or regulation pertaining to the transportation of dead bodies, and shall not adopt any rule or regulation requiring dead bodies to be embalmed except as required by the State Department of Health's Rule 43 or any subsequent rule adopted by the department.

SECTION 4. Section 73-11-51, Mississippi Code of 1972, is amended as follows:

73-11-51. (1) No person shall engage in the business or practice of funeral service, including embalming, and/or funeral directing or hold himself out as transacting or practicing or being entitled to transact or practice funeral service, including embalming, and/or funeral directing in this state unless duly licensed under the provisions of this chapter.

(2) The board is authorized and empowered to examine applicants for licenses for the practice of funeral service and funeral directing and shall issue the proper license to those persons who successfully pass the applicable examination and otherwise comply with the provisions of this chapter.

(3) To be licensed for the practice of funeral directing under this chapter, a person must furnish satisfactory evidence to the board that he or she:

(a) Is at least eighteen (18) years of age;

(b) Has a high school diploma or the equivalent thereof;

(c) Has served as a resident trainee for not less than twenty-four (24) months under the supervision of a person licensed for the practice of funeral service or funeral directing in this state;

(d) Has successfully passed a written and/or oral examination as prepared or approved by the board; and



236 (e) Is of good moral character.

237 (4) To be licensed for the practice of funeral service under
238 this chapter, a person must furnish satisfactory evidence to the
239 board that he or she:

240 (a) Is at least eighteen (18) years of age;

241 (b) Has a high school diploma or the equivalent
242 thereof;

243 (c) Has successfully completed twelve (12) months or
244 more of academic and professional instruction from an institution
245 accredited by the United States Department of Education for
246 funeral service education and have a certificate of completion
247 from an institution accredited by the American Board of Funeral
248 Service Education or any other successor recognized by the United
249 States Department of Education for funeral service education;

250 (d) Has served as a resident trainee for not less than
251 twelve (12) months, either before or after graduation from an
252 accredited institution mentioned above, under the supervision of a
253 person licensed for the practice of funeral service in this state
254 and in an establishment licensed in this state;

255 (e) Has successfully passed the National Conference of
256 Funeral Examiners examination and/or such other examination as
257 approved by the board; and

258 (f) Is of good moral character.

259 (5) All applications for examination and license for the
260 practice of funeral service or funeral directing shall be upon
261 forms furnished by the board and shall be accompanied by an
262 examination fee, a licensing fee and a nonrefundable application
263 fee in amounts fixed by the board in accordance with Section
264 73-11-56. The fee for an initial license, however, may be
265 prorated in proportion to the period of time from the date of
266 issuance to the date of biennial license renewal prescribed in
267 subsection (8) of this section. All applications for examination
268 shall be filed with the board office at least sixty (60) days



before the date of examination. A candidate shall be deemed to have abandoned the application for examination if he does not appear on the scheduled date of examination unless such failure to appear has been approved by the board.

(6) The practice of funeral service or funeral directing must be engaged in at a licensed funeral establishment, at least one (1) of which is listed as the licensee's place of business; and no person, partnership, corporation, association or other organization shall open or maintain a funeral establishment at which to engage in or conduct or hold himself or itself out as engaging in the practice of funeral service or funeral directing until such establishment has complied with the licensing requirements of this chapter. A license for the practice of funeral service or funeral directing shall be used only at licensed funeral establishments; however, this provision shall not prevent a person licensed for the practice of funeral service or funeral directing from conducting a funeral service at a church, a residence, public hall, lodge room or cemetery chapel, if such person maintains a fixed licensed funeral establishment of his own or is in the employ of or an agent of a licensed funeral establishment.

(7) Any person holding a valid, unrevoked and unexpired nonreciprocal license in another state or territory having requirements greater than or equal to those of this state as determined by the board may apply for a license to practice in this state by filing with the board a certified statement from the secretary of the licensing board of the state or territory in which the applicant holds his license certifying to his qualifications and good standing with that board. He/she must also successfully pass a written and/or oral examination on the Mississippi Funeral Service licensing law and rules and regulations as prepared or approved by the board, and must pay a nonrefundable application fee set by the board * * *. If the



board finds that the applicant has fulfilled aforesaid
requirements and has fulfilled substantially similar requirements
of those required for a Mississippi licensee, the board shall
grant such license upon receipt of a fee in an amount equal to the
renewal fee set by the board for a license for the practice of
funeral service or funeral directing, as the case may be, in this
state. The board may issue a temporary funeral service or funeral
directing work permit before a license is granted, before the next
regular meeting of the board, if the applicant for a reciprocal
license has complied with all requirements, rules and regulations
of the board. The temporary permit will expire at the next
regular meeting of the board.

(8) (a) Except as provided in Section 33-1-39, any person
holding a license for the practice of funeral service or funeral
directing may have the same renewed for a period of two (2) years
by making and filing with the board an application on or before
the due date. Payment of the renewal fee shall be in an amount
set by the board in accordance with Section 73-11-56. The board
shall mail the notice of renewal and the due date for the payment
of the renewal fee to the last known address of each licensee at
least thirty (30) days before that date. It is the responsibility
of the licensee to notify the board in writing of any change of
address. An application will be considered late if the
application and proper fees are not in the board's office or
postmarked by the due date. Failure of a license holder to
receive the notice of renewal shall not exempt or excuse a license
holder from the requirement of renewing the license on or before
the license expiration date.

(b) If the renewal fee is not paid on or postmarked by
the due date, the license of such person shall by operation of law
automatically expire and become void without further action of the
board. The board may reinstate such license if application for
licensure is made within a period of five (5) years, upon payment



of the renewal fee for the current year, all renewal fees in arrears, and a reinstatement fee. After a period of five (5) years, the licensee must make application, pay the current renewal fee, all fees in arrears, and pass a written and/or oral examination as prepared or approved by the board.

(9) No license shall be assignable or valid for any person other than the original licensee.

(10) The board may, in its discretion, if there is a major disaster or emergency where human death is likely to occur, temporarily authorize the practice of funeral directing and funeral service by persons licensed to practice in another state but not licensed to practice in this state * * *. Only persons licensed in this state, however, may sign death certificates.

(11) A person who is licensed for the practice of funeral service by another state is authorized to make a removal of a deceased person, embalm a deceased person or conduct a funeral or burial service in this state, and a funeral director who is licensed by another state is authorized to conduct a funeral or burial service in this state, in the same manner and to the same extent as provided by the laws of that state to persons licensed by the State of Mississippi for the practice of funeral service or for the practice of funeral directing. The board is authorized to enter into written agreements with those states detailing the manner and extent to which persons licensed by the State of Mississippi may practice funeral service or directing in that state.

(12) Any funeral service technology or mortuary science program accredited by the American Board of Funeral Service Education in the State of Mississippi, as well as students enrolled in such a program, shall be exempt from licensing under this chapter when embalming or otherwise preparing a deceased human body for disposition as part of a student practicum experience, when the student is directly supervised by an



instructor or preceptor who holds a current funeral service license. This exemption shall apply to practicum experiences performed at an accredited institution of funeral service technology or mortuary science program or at a duly licensed funeral establishment or commercial mortuary service. Nothing in this subsection shall be construed to allow any funeral service technology or mortuary science program, or those students enrolled in such a program, to engage in practicum experiences for remuneration.

(13) Each application or filing made under this section shall include the social security number(s) of the applicant in accordance with Section 93-11-64.

SECTION 5. Section 73-11-53, Mississippi Code of 1972, is amended as follows:

73-11-53. (1) A person desiring to become a resident trainee for the practice of funeral service or funeral directing shall make application to the board. Such application shall be verified by the licensee under whom the applicant is serving, and shall be accompanied by a nonrefundable application fee in an amount set by the board in accordance with Section 73-11-56. When the board is satisfied as to the qualifications of an applicant, it shall issue a certificate of resident traineeship. * * *

(2) The board shall have the power to suspend or revoke a certificate of a resident traineeship for violation of any provision of this chapter.

(3) A resident trainee must serve the apprenticeship in a funeral establishment that is licensed by the State of Mississippi and the preceptor must be a Mississippi licensee who is employed by a Mississippi licensed funeral establishment.

(4) A resident traineeship certificate shall be renewable upon payment of a renewal fee as set by the board. * * * The fee and application will be considered late if the fee and application



are not in the office or show a postmark of December 31.
Applications received late may be reinstated by the payment of a
renewal fee, a reinstatement fee and other applicable fees.
Failure to receive a renewal notice does not exempt a resident
trainee from the required renewal of his/her traineeship.

SECTION 6. Section 73-11-55, Mississippi Code of 1972, is
amended as follows:

73-11-55. (1) No person or party shall conduct, maintain,
manage or operate a funeral establishment or branch thereof unless
a license for each such establishment has been issued by the board
and is conspicuously displayed in such funeral establishment. In
case of funeral services held in any private residence, church,
cemetery, cemetery chapel, cemetery facility, or lodge hall, no
license shall be required.

(2) To be licensed as a funeral establishment, a place or
premise must be at a fixed and specified address or location and
must be used for immediate post-death activities, whether used for
the custody, shelter, care, preparation and/or embalming of the
human dead. Every funeral establishment shall be under the charge
and personal supervision of a Mississippi funeral director
licensee or a Mississippi funeral service licensee. The licensee
in charge and the licensee with personal supervisory
responsibilities need not be the same licensee. Each licensed
funeral establishment shall be inspected at least once during each
licensing period. Such inspections may be unannounced. After
inspection of a funeral establishment, if the board cites the
funeral establishment for failure to comply with any provision of
this chapter or a rule or regulation of the board, the funeral
establishment shall resolve the violation to the satisfaction of
the board and be in full compliance with this chapter and board
rules and regulations not later than thirty (30) days after the
board files the inspection report.



432 (3) (a) A funeral establishment must contain a preparation
433 and/or embalming room, adequate casket and/or vault selection
434 room, * * * holding facilities and proper room or rooms in which
435 rites and ceremonies may be held. A funeral establishment shall
436 be subject to an inspection at least once during a two-year
437 license period. Each new establishment must be inspected before
438 the opening. All portions of each facility licensed under this
439 section shall be kept in a clean and sanitary condition.

440 (b) A branch establishment must contain an office
441 and/or an arrangement room, and a room for viewing and/or a chapel
442 or proper place for ceremonies. A branch establishment need not
443 meet all requirements specified in paragraph (a) of this
444 subsection and need not be under the personal supervision of a
445 Mississippi funeral director licensee or a Mississippi funeral
446 service licensee.

447 If the branch meets all requirements of a funeral
448 establishment as specified in paragraph (a) of this subsection,
449 such establishment must be under the charge and personal
450 supervision of a Mississippi funeral director licensee or a
451 Mississippi funeral service licensee.

452 (c) A commercial mortuary service is a funeral
453 establishment that embalms and transports for licensed funeral
454 establishments and does not sell any services or merchandise
455 directly or at retail to the public.

456 (4) Applications for funeral establishment licenses, branch
457 establishment licenses or commercial mortuary service licenses
458 shall be made on blanks furnished by the board and shall be
459 accompanied by a fee in an amount fixed by the board under Section
460 73-11-56. All establishment licenses shall be issued for a period
461 of two (2) years, except initial licenses may be prorated from the
462 date of issuance to the next renewal date.

463 Renewal funeral establishment and branch establishment
464 license applications and license fees shall be due and payable to



the board on or before the expiration date of the license. The board shall mail the notice of renewal and the due date for payment of the renewal fee at least thirty (30) days before that date. Failure of the license holder to receive the notice of renewal shall not exempt or excuse the holder from the requirement of renewing the license on or before the license expiration date.

(5) If the renewal fee is not paid on or postmarked by the due date, the license shall by operation of law automatically expire and become void without further action of the board. All establishments whose licenses have expired under this section may be reinstated by filing with the board an application for reinstatement, submitting to an inspection during which time the licensee in charge of such establishment shall be interviewed by the board or its designee and by paying all renewal fees * * *, a reinstatement fee, and other applicable fees.

(6) No license shall be assignable or transferable or valid for any establishment other than the original licensee. License fees and application fees are nonrefundable.

(7) A license for each new establishment shall not be issued until an inspection has been made, license and inspection fees have been paid, and the licensee in charge and/or owners of such establishment has been interviewed by the board or its designee.

(8) The board is authorized to establish rules and regulations for the issuance of a special funeral establishment work permit.

SECTION 7. Section 73-11-56, Mississippi Code of 1972, is amended as follows:

73-11-56. On or before October 1 of each year, the board shall determine the amount of funds that will be required during the next ensuing two (2) years to properly administer the laws which the board is directed to enforce and administer and by rule and regulation shall fix fees in such reasonable sums as may be necessary for such purposes within the following limitations:



498	Funeral establishment:		
499	Application fee, <u>for a new or change of</u>		
500	<u>ownership establishment</u>	\$	<u>500.00</u>
501	Inspection fee * * *.....	\$	75.00
502	* * *		
503	<u>Renewal application and licensee fee</u>	\$	<u>300.00</u>
504	Commercial mortuary service license fee		
505	<u>for a new or change of ownership</u>	\$	<u>500.00</u>
506	<u>Renewal application and licensee fee</u>	\$	<u>300.00</u>
507	Crematory application fee <u>for a new</u>		
508	<u>or change of ownership</u>	\$	<u>500.00</u>
509	Renewal application and license fee * * *.....	\$	300.00
510	* * *		
511	Special work permit.....	\$	150.00
512	Funeral service:		
513	<u>Initial</u> application fee * * *.....	\$	50.00
514	Reciprocal application fee * * *.....	\$	<u>200.00</u>
515	* * *		
516	Renewal license <u>and application fee</u> * * *.....	\$	<u>125.00</u>
517	Work permit * * *.....	\$	50.00
518	* * *		
519	Funeral director:		
520	<u>Initial</u> application fee * * *.....	\$	50.00
521	Reciprocal application fee * * *.....	\$	<u>200.00</u>
522	* * *		
523	Renewal license <u>and application</u> fee * * *.....	\$	<u>100.00</u>
524	Work permit * * *.....	\$	50.00
525	* * *		
526	<u>Certified crematory operator:</u>		
527	<u>Initial</u> application fee.....	\$	<u>100.00</u>
528	<u>Renewal license and application fee</u>	\$	<u>100.00</u>
529	Resident trainee certificate:		
530	Funeral service application fee * * *.....	\$	50.00

531 Funeral director application fee * * *.....\$ 50.00
532 Funeral service renewal application fee * * *.....\$ 50.00
533 Funeral director renewal application fee * * *.....\$ 50.00
534 Other fees:
535 Duplicate license fee * * *.....\$ 25.00
536 Reinstatement of lapsed license fee, equal to the
537 amount of the applicable license fee (or the amount of
538 the application fee for the resident trainees).
539 Late fee equal to the amount of the applicable
540 license fee (or the amount of the application fee
541 for the resident trainees).
542 Public records of the board per page.....\$ 1.00

543 All licenses will have a reinstatement and late fee added to
544 the renewal fee if the payment is not in the board's office or
545 postmarked by the due date.
546 At least thirty (30) days prior to the expiration date of any
547 license issued by the board, the board shall notify the licensee
548 of the applicable renewal fee therefor.

549 **SECTION 8.** Section 73-11-57, Mississippi Code of 1972, is
550 amended as follows:
551 73-11-57. (1) The board, upon satisfactory proof at proper
552 hearing and in accordance with the provisions of this chapter and
553 the regulations of the board, may suspend, revoke, or refuse to
554 issue or renew any license under this chapter, reprimand or place
555 the holder of a license on a term of probation, and/or take any
556 other action in relation to a license as the board may deem proper
557 under the circumstances upon any of the following grounds:

- 558 (a) The employment of fraud or deception in applying
559 for a license or in passing the examination provided for in this
560 chapter;
561 (b) The erroneous issuance of a license to any person;
562 (c) The conviction of a felony by any court in this
563 state or any federal court or by the court of any other state or

territory of the United States; having been convicted of or pled
guilty to a felony in the courts of this state or any other state,
territory or country which would prevent a person from holding
elected office. Conviction, as used in this paragraph, shall
include a deferred conviction, deferred prosecution, deferred
sentence, finding or verdict of guilt, an admission of guilty, or
a plea of nolo contendere;

(d) The practice of embalming under a false name or
without a license for the practice of funeral service;

(e) The impersonation of another funeral service or
funeral directing licensee;

(f) The permitting of a person other than a funeral
service or funeral directing licensee to make arrangements for a
funeral and/or form of disposition;

(g) Violation of any provision of this chapter or any
rule or regulation of the board;

(h) Having had a license for the practice of funeral
service or funeral directing suspended or revoked in any
jurisdiction, having voluntarily surrendered his license in any
jurisdiction, having been placed on probation in any jurisdiction,
having been placed under disciplinary order(s) or other
restriction in any manner for funeral directing and/or funeral
service, or operating a funeral establishment (a certified copy of
the order of suspension, revocation, probation or disciplinary
action shall be prima facie evidence of such action);

(i) Solicitation of dead human bodies by the licensee,
his agents, assistants or employees, whether such solicitation
occurs after death or when death is imminent; if the person
solicited has made known a desire not to receive the
communication, or if the solicitation involves coercion, duress or
harassment, or if the solicitation takes place at the residence of
the client or prospective client and is uninvited by the client or
prospective client and has not been previously agreed to by the



client or prospective client; however, this shall not be deemed to prohibit general advertising;

(j) Employment directly or indirectly of any apprentice, agent, assistant, employee, or other person, on a part-time or full-time basis or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral establishment;

(k) Failure to give full cooperation to the board and/or its designees, agents or other representatives in the performance of official duties of the board. Such failure to cooperate includes, but is not limited to:

(i) Not furnishing any relevant papers or documents requested by or for the board;

(ii) Not furnishing, in writing, an adequate explanation covering the matter contained in a complaint filed with the board;

(iii) Not responding without cause to subpoenas issued by the board, whether or not the licensee is the party charged in any proceeding before the board;

(iv) Not reasonably providing access, as directed by the board for its authorized agents or representatives seeking to perform reviews or inspections at facilities or places utilized by the license holder in the practice of funeral service or funeral directing and/or in performing any other activity regulated by the board under this chapter;

(v) Failure to provide information within the specified time allotted and as required by the board and/or its representatives or designees;

(vi) Failure to cooperate with the board or its designees or representatives in the investigation of any alleged misconduct or interfering with a board investigation by willful misrepresentation of facts;



630 (vii) Deceiving or attempting to deceive the board
631 regarding any matter under investigation, including altering or
632 destroying any records; and

633 (viii) Failure, without good cause, to cooperate
634 with any request by the board to appear before it;

635 (l) Knowingly performing any act that in any way
636 assists an unlicensed person to practice funeral service or
637 funeral directing;

638 (m) Knowingly making a false statement on death
639 certificates; * * *

640 (n) Conviction of a crime involving moral turpitude;

641 (o) Violating any statute, ordinance, rule or
642 regulation of the state or any of its boards, agencies or
643 political subdivisions affecting the registration of deaths or the
644 handling, custody, care or transportation of dead human bodies; or

645 (p) Unprofessional conduct in the practice of funeral
646 service or funeral directing which includes, but is not limited
647 to:

648 (i) Retaining a dead human body for the payment of
649 a fee for the performance of services that are not authorized;

650 (ii) Knowingly performing any act which in any way
651 assists an unlicensed person to practice funeral service or
652 funeral directing;

653 (iii) Being guilty of any dishonorable conduct
654 likely to deceive, defraud or harm the public;

655 (iv) Any act or omission in the practice of
656 funeral service or directing which constitutes dishonesty, fraud
657 or misrepresentation with the intent to benefit the licensee,
658 another person or funeral establishment, or with the intent to
659 substantially injure another person, licensee or funeral
660 establishment; or

661 (v) Any act or conduct, whether the same or of a
662 different character than specified above, which constitutes or



demonstrates bad faith, incompetency or untrustworthiness; or dishonest, fraudulent or improper dealing; or any other violation of the provisions of this chapter, the rules and regulations established by the board or any rule or regulation promulgated by the Federal Trade Commission relative to the practice of funeral service or funeral directing.

(2) Any person, including a member of the board, may initiate a complaint against a licensee of the board by filing with the board a written complaint on a form prescribed by the board.

(a) Upon receipt of a properly verified complaint, the board shall send a copy of the complaint to the affected licensee by certified mail to the address of such licensee appearing of record with the board. The licensee shall answer the complaint in writing within twenty (20) days after receipt of the complaint. The licensee shall mail a copy of his, her or its response to the board and the complainant. Upon receipt of the licensee's response or lapse of twenty (20) days, the board is authorized to investigate a complaint that appears to show the existence of any of the causes or grounds for disciplinary action as provided in Section 73-11-57. Upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, the board may, in its discretion, cause a hearing to be held, at a time and place fixed by the board, regarding the charges that a violation of this chapter has occurred. The board shall order a hearing for the licensee to appear and show cause why he/she should not be disciplined for a violation of this chapter.

(b) The board shall give the complainant and the affected licensee twenty (20) days' notice of any hearing upon a complaint. Such notice shall be by United States certified mail.

(c) Any party appearing before the board may be accompanied by counsel.



695 (d) Before commencing a hearing, the chairman or
696 designee of the board shall determine if all parties are present
697 and ready to proceed. If the complainant fails to attend a
698 hearing without good cause shown, the complaint shall be dismissed
699 summarily and all fees and expenses of convening the hearing shall
700 be assessed to, and paid by, the complainant. If any affected
701 licensee fails to appear for a hearing without good cause shown,
702 such licensee shall be presumed to have waived his right to appear
703 before the board and be heard.

704 (e) Upon the chair's determination that all parties are
705 ready to proceed, the chair or designee shall call the hearing to
706 order and the complainant and the licensee may give opening
707 statements. The board may order the sequestration of nonparty
708 witnesses.

709 (f) The complainant shall then present his, her or its
710 complaint. The licensee, any counsel and any member or designee
711 of the board may ask questions of witnesses.

712 (g) The licensee shall then present his, her or its
713 case in rebuttal. The complainant, any counsel and any member or
714 designee of the board may ask questions of witnesses.

715 (h) At the completion of the evidence, all parties may
716 give closing statements.

717 (i) At the conclusion of the hearing, the board may
718 either decide the issue at that time or take the case under
719 advisement for further deliberation. The board shall render its
720 decision not more than ninety (90) days after the close of the
721 hearing and shall forward the decision to the last known business
722 or residence address of the parties.

723 (3) The board, on its own motion, may file a formal
724 complaint against a licensee.

725 (4) The board may temporarily suspend a license under this
726 chapter without any hearing, simultaneously with the institution
727 of proceedings under this section, if it finds that the evidence



in support of the board's determination is clear, competent and unequivocal and that the licensee's continuation in practice would constitute an imminent danger to public health and safety.

(5) The board may, upon satisfactory proof that the applicant or licensee has been guilty of any of the offenses above enumerated, take the action authorized by this section against an applicant or licensee of the board upon a majority vote of the board members, after a hearing thereon. The board is vested with full power and authority to hold and conduct such hearings, compel the attendance of witnesses and the production of books, records and documents, issue subpoenas therefor, administer oaths, examine witnesses, and do all things necessary to properly conduct such hearings. The board may waive the necessity of a hearing if the person accused of a violation admits that he has been guilty of such offense. Any person who has been refused a license or whose license has been revoked or suspended may, within thirty (30) days after the decision of the board, file with the board a written notice stating that he feels himself aggrieved by such decision and may appeal therefrom to the circuit court of the county and judicial district of residence of the person, or if the person is a nonresident of the State of Mississippi, to the Circuit Court of the First Judicial District of Hinds County. The circuit court shall * * * determine * * * the action of the board was in accord or consistent with law, or was arbitrary, unwarranted or an abuse of discretion. The appeal shall be perfected upon filing notice of the appeal with the circuit court and by the prepayment of all costs, including the cost of the preparation of the record of the proceedings by the board. An appeal from the circuit court judgment or decree may be reviewed by the Supreme Court as is provided by law for other appeals. An appeal of a decision or order of the board does not act as a supersedeas.

(6) In addition to any other power that it has, the board may, upon finding that an applicant or licensee has committed any



761 of the violations listed in Section 73-11-57(1), impose a monetary
762 penalty as follows:

763 (a) For the first violation of any of the subparagraphs
764 of subsection (1) of this section, a monetary penalty of not more
765 than Five Hundred Dollars (\$500.00).

766 (b) For the second violation of any of the
767 subparagraphs of subsection (1) of this section, a monetary
768 penalty of not more than One Thousand Dollars (\$1,000.00).

769 (c) For the third and any subsequent violation of any
770 of the subparagraphs of subsection (1) of this section, a monetary
771 penalty of not more than Five Thousand Dollars (\$5,000.00).

772 (d) For any violation of any of the subparagraphs of
773 subsection (1) of this section, those reasonable costs that are
774 expended by the board in the investigation and conduct of a
775 proceeding for licensure revocation or suspension, including, but
776 not limited to, the cost of process service, court reporters,
777 expert witnesses and investigators.

778 (7) The power and authority of the board to assess and levy
779 such monetary penalties hereunder shall not be affected or
780 diminished by any other proceeding, civil or criminal, concerning
781 the same violation or violations except as provided in this
782 section.

783 (8) A licensee shall have the right of appeal from the
784 assessment and levy of a monetary penalty as provided in this
785 section under the same conditions as a right of appeal is provided
786 elsewhere for appeals from an adverse ruling, order or decision of
787 the board.

788 (9) Any monetary penalty assessed and levied under this
789 section shall not take effect until after the time for appeal
790 shall have expired.

791 (10) A monetary penalty assessed and levied under this
792 section shall be paid to the board by the licensee upon the



expiration of the period allowed for appeal of such penalties under this section or may be paid sooner if the licensee elects.

With the exception of subsection (5)(d) of this section, monetary penalties collected by the board under this section shall be deposited in the State Treasury to the credit of the State Board of Funeral Service. Any monies collected by the board under subsection (5)(d) of this section shall be deposited into the special fund operating account of the board.

(11) When payment of a monetary penalty assessed and levied by the board against a licensee in accordance with this section is not paid by the licensee when due under this section, the board shall have power to institute and maintain proceedings in its name for enforcement of payment in the chancery court of the county and judicial district of residence of the licensee, or if the licensee is a nonresident of the State of Mississippi, in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(12) In any administrative or judicial proceeding in which the board prevails, the board shall have the right to recover reasonable attorney fees.

(13) In addition to the reasons specified in subsection (1) of this section, the board shall be authorized to suspend the license of any licensee for being out of compliance with an order for support, as defined in Section 93-11-153. The procedure for suspension of a license for being out of compliance with an order for support, and the procedure for the reissuance or reinstatement of a license suspended for that purpose, and the payment of any fees for the reissuance or reinstatement of a license suspended for that purpose, shall be governed by Section 93-11-157 or 93-11-163, as the case may be. Actions taken by the board in suspending a license when required by Section 93-11-157 or 93-11-163 are not actions from which an appeal may be taken under this section. Any appeal of a license suspension that is required by Section 93-11-157 or 93-11-163 shall be taken in accordance



with the appeal procedure specified in Section 93-11-157 or 93-11-163, as the case may be, rather than the procedure specified in this section. If there is any conflict between any provision of Section 93-11-157 or 93-11-163 and any provision of this chapter, the provisions of Section 93-11-157 or 93-11-163, as the case may be, shall control.

SECTION 9. Section 73-11-69, Mississippi Code of 1972, is amended as follows:

73-11-69. (1) No person or party shall conduct, maintain, manage or operate a crematory unless a license for each such crematory has been issued by the board and is conspicuously displayed in such crematory. * * *

(2) The operator of a crematory facility shall issue a certificate of cremation to the family of each person cremated in the facility. In addition, the operator of the crematory facility shall maintain a log of all cremations performed in the facility, and this log shall match the certificates of cremation that have been issued by the facility.

(3) No operator of a crematory facility shall knowingly represent that an urn or temporary container contains the recovered cremated remains of specific decedent or of body parts removed from a specific decedent when it does not. This subsection does not prohibit the making of such a representation because of the presence in the recovered cremated remains of de minimis amounts of the cremated remains of another decedent or of body parts.

(4) The board shall inspect each licensed crematory facility during each licensure period, and at such other times as necessary, to verify that the crematory facility is in compliance with the requirements of this section. Any person who operates a crematory facility in this state without a license, or any person who otherwise violates any provision of this section, is guilty of a felony. Upon conviction for a violation of this section, in



addition to any penalty that may be imposed by the court, the board may revoke the person's crematory facility license.

(5) If the retort of a crematory becomes in need of repair, then the operator of the crematory shall notify the board in writing and by telephone within forty-eight (48) hours of discovery of the need to repair, and no cremation shall be made from the time of discovery until satisfactory proof is provided to the board that the repair has been made.

(6) The board may promulgate such rules and regulations as deemed necessary for the proper licensure and regulation of crematory facilities in this state. Such rules and regulations shall include, but not be limited to, the following: crematory facility requirements, identification of deceased human beings, cremation process, processing of remains, comingling of human remains, disposition of cremated remains, removal of human remains and proper documentation requirements as prescribed by state agencies.

(7) Any crematory or funeral establishment may dispose of any remains unclaimed by the family after twelve (12) months after cremation by scattering or burial upon a final notification to the next of kin by certified mail to their last known address.

(8) The crematory retort operator must be a certified crematory operator or current holder of a funeral service or funeral director license issued by the board.

(9) No crematory facility licensed by the board shall be used for the cremation of deceased animals.

(10) This section shall stand repealed from and after July 1, 2009.

SECTION 10. The following section shall be codified as Section 73-11-71, Mississippi Code of 1972:

73-11-71. (1) Upon the completion of each cremation, and insofar as is practicable, all of the recoverable residue of the cremation process shall be removed from the crematory and placed



892 in a separate container so that the residue may not be commingled
893 with the cremated remains of other persons. Cremated remains of a
894 dead human shall not be divided or separated without the prior
895 written consent from the person entitled to control the
896 disposition of the cremated remains.

897 (2) Written acknowledgement from the person entitled to
898 control the disposition of the cremated remains shall be obtained
899 by the person with whom arrangements are made for disposition of
900 the remains on a form that includes, but is not limited to, the
901 following information:

902 "The human body burns with the casket, container
903 or other material in the cremation chamber. Some
904 bone fragments are not combustible at the incineration
905 temperature and, as a result, remain in the cremation
906 chamber. During the cremation, the contents of the
907 chamber may be moved to facilitate incineration. The
908 chamber is composed of ceramic or other material which
909 disintegrates slightly during each cremation and the
910 produce of that disintegration is commingled with the
911 cremated remains. Nearly all of the contents of the
912 cremation chamber, consisting of the cremated remains,
913 disintegrated chamber material, and small amounts of
914 residue from previous cremations, are removed together
915 and crushed, pulverized or ground to facilitate inurnment
916 or scattering. Some residue remains in the cracks and
917 uneven places of the chamber. Periodically, the accumulation
918 of this residue is removed and interred in a dedicated
919 cemetery property or appropriate area."

920 The acknowledgment shall be filed and retained for at least three
921 (3) years by the person who disposes of or inters the remains.

922 (3) This section shall stand repealed from and after July 1,
923 2009.



924 **SECTION 11.** Section 73-11-33, Mississippi Code of 1972, is
925 amended as follows:

926 73-11-33. Sections 73-11-41 through 73-11-69, which create
927 the State Board of Funeral Service and prescribe its duties and
928 powers, shall stand repealed as of July 1, 2013.

929 **SECTION 12.** This act shall take effect and be in force from
930 and after July 1, 2008.

